

ITEM 12
PROPOSED CONSOLIDATION OF PARAMETERS AND GUIDELINES
FINAL STAFF ANALYSIS

Education Code Section 47605, Subdivision (b), and
former Subdivisions (j)(1), (j)(2), and (j)(3)

Education Code Section 47607, Subdivisions (a) and (b)

Statutes 1992, Chapter 781

Charter Schools (CSM 4437)

and

Education Code Sections 47605, Subdivisions (j)(1) and (k)(3),
47605.5, 47607, and 47614

Statutes 1998, Chapters 34 and 673

Charter Schools II (99-TC-03)

San Diego Unified School District and Los Angeles County Office of Education, Claimants

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Charter Schools II (99-TC-03)

San Diego Unified School District and Los Angeles County Office of Education, Claimants

EXECUTIVE SUMMARY

On September 25, 2003, the proposed consolidation of the existing parameters and guidelines for *Charter Schools* and the proposed parameters and guidelines for *Charter Schools II* was before the Commission on State Mandates (Commission). Staff issued an errata sheet that changed the effective date of the reimbursement period from fiscal year 2003-2004 to January 1, 1999, the effective date of the *Charter Schools II* test claim legislation. With that modification to the item, the separate item for *Charter Schools II* was no longer necessary. Therefore, staff withdrew it from consideration and vote, and recommended that the Commission only adopt the proposed consolidated parameters and guidelines with the reimbursement period beginning January 1, 1999.

The withdrawn item included a provision that would have required claimants to re-file reimbursement claims for the *Charter Schools* program for fiscal years 1998-1999 through 2002-2003, to address changes in the law. However, direction to re-file reimbursement claims resides with the State Controller's Office (SCO).¹ The SCO requested a continuance in order to review the issue. The Commission granted the request.

No comments were received on the revised draft staff analysis issued on October 7, 2003.

Background and Summary of the Claims

Since 1994, the Commission has adopted two decisions related to the *Charter Schools* program. This item proposes to combine the parameters and guidelines for *Charter Schools*, which was adopted in October 1994, and *Charter Schools II*, which is effective beginning January 1, 1999.

On July 21, 1994, the Commission adopted its Statement of Decision for the *Charter Schools* program, finding that Education Code sections 47605 and 47607, as added by Statutes 1992, chapter 781, require new activities related to initial charter school petitions and for monitoring

¹ See Government Code section 17558.

and evaluating the performance of charter schools pertaining to the revision or renewal of approved charters.

On November 21, 2002, the Commission adopted its Statement of Decision for the *Charter Schools II* program, finding that Education Code sections 47605, subdivisions (j)(1) and (k)(3), 47605.5, 47607, and 47614, as added or amended by Statutes 1998, chapters 34 and 673, require specific new activities. The Commission also found that Education Code section 47613 establishes a fee authority that must be used by a school district or county office of education to offset any claimed reimbursement for the costs of charter school supervisorial oversight under the *Charter Schools* Parameters and Guidelines.

Staff Analysis

II. Eligible Claimants

Staff clarified that charter schools are not eligible claimants for this mandate. No activities or costs were claimed at the test claim phase on behalf of charter schools themselves, and therefore, no legal findings were made that would permit charter schools to be reimbursed for these test claim activities. Accordingly, charter schools cannot file reimbursement claims, either on their own, or within the claims of a school district or county office of education that granted the charter or was assigned to monitor the charter.

III. Period of Reimbursement

This proposed consolidated set of parameters and guidelines is operative for costs incurred from January 1, 1999, and beyond.

Also, staff clarified that Education Code section 47614, as added by Statutes 1998, chapter 34, was replaced by voter approval of Proposition 39, which was operative November 8, 2000. Therefore, costs incurred for compliance with Education Code section 47614 is only reimbursable for the period January 1, 1999, through November 7, 2000.

IV. Reimbursable Activities

Education Code section 47605, subdivision (j)(1), as amended by Statutes 1998, chapter 673, replaced the previously approved mandate in *Charter Schools* for a review process for denied charter school petitions. Therefore, effective January 1, 1999, the activities from the original *Charter Schools* Parameters and Guidelines, which were added by former Education Code section 47605, subdivisions (j)(1), (j)(2), and (j)(3), are no longer reimbursable, and thus, were not included in this proposed consolidated parameters and guidelines.

VII. Offsetting Savings and Reimbursements

Staff noted the Commission's finding regarding the fee authority established by Education Code section 47613 in this section.

Staff Recommendation

Staff recommends that the Commission consolidate the parameters and guidelines for *Charter Schools* with the proposed parameters and guidelines for *Charter Schools II*. The proposed consolidated parameters and guidelines begin on page 9.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the proposed consolidated parameters and guidelines following the hearing.

STAFF ANALYSIS

Claimants

San Diego Unified School District and Los Angeles County Office of Education

Chronology

07/21/94	Commission on State Mandates (Commission) adopted the Statement of Decision for Charter Schools.
10/18/94	Commission adopted parameters and guidelines for Charter Schools.
11/21/02	Commission adopted the Statement of Decision for Charter Schools II.
12/02/02	Claimant submitted proposed parameters and guidelines to combine Charter Schools and Charter Schools II.
12/04/02	Commission requested comments on the proposed parameters and guidelines.
12/12/02	Spector, Middleton, Young and Minney, on behalf of Mandated Cost Systems, interested party, submitted comments.
01/03/03	The State Controller's Office (SCO) submitted comments.
08/05/03	Draft staff analysis issued.
09/04/03	Final staff analysis issued.
09/04/03	SCO submitted comments on draft staff analysis.
09/25/03	The proposed consolidation of parameters and guidelines was brought before the Commission. The SCO requested a continuance, which the Commission granted.
10/07/03	Revised draft staff analysis issued.
11/10/03	Final staff analysis issued.

Background and Summary of the Claims

Since 1994, the Commission has adopted two decisions related to the *Charter Schools* program. This item proposes to combine the parameters and guidelines for *Charter Schools*, which was adopted in October 1994, and *Charter Schools II*, which is effective beginning January 1, 1999.

Charter Schools

On July 21, 1994, the Commission adopted its Statement of Decision finding that Education Code sections 47605 and 47607, as added by Statutes 1992, chapter 781, require new activities related to initial charter school petitions and for monitoring and evaluating the performance of charter schools pertaining to the revision or renewal of approved charters. These activities constitute a new program or higher level of service for school districts and/or county offices of education within the meaning of article XIII B, section 6 of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514. Specifically, the Commission approved the *Charter Schools* test claim for the increased costs of performing the following activities:

School Districts

- Respond to requests from the public for information on the charter school program. (Ed. Code, § 47605.)

- Conduct a public hearing within thirty days of receipt of a petition to determine community support for the petition. (Ed. Code, § 47605, subd. (b).)
- Grant or deny the petition within sixty days of receipt, subject to a thirty-day extension upon agreement of the parties. (Ed. Code, § 47605, subd. (b).)
- Provide persons to take part in a review panel to review the decision of the governing board of the school district and, if necessary, request the governing board of the school district to reconsider the charter request. (Former Ed. Code, § 47605, subd. (j).)
- Respond to any request of the review panel selected and convened by the county superintendent of schools pursuant to an appeal of any petition denied by the school district. (Former Ed. Code, § 47605, subd. (j).)
- Monitor the performance of charter schools for which they have granted charters to determine if they have achieved their goals and objectives. (Ed. Code, § 47607.)
- Evaluate and decide upon requests for revision or extension of approved charters. (Ed. Code, § 47607.)

County Boards of Education

- Select and convene a review panel to review the decision of the governing board of the school district and, if necessary, request the governing board of the school district to reconsider the charter request. (Former Ed. Code, § 47605, subds. (j)(1) and (j)(2).)
- Hear a petition following a denial on reconsideration by the governing board of a school district. (Former Ed. Code, § 47605, subd. (j)(3).)
- Conduct a public hearing within thirty days of receipt of a petition to determine community support for the petition. (Former Ed. Code, § 47605, subd. (j)(3).)
- Grant or deny the petition within sixty days of receipt, subject to a thirty-day extension upon agreement of the parties. (Former Ed. Code, § 47605, subd. (j)(3).)
- Monitor the performance of charter schools for which they have granted charters to determine if they have achieved their goals and objectives. (Ed. Code, § 47607.)
- Evaluate and decide upon requests for revision or extension of approved charters. (Ed. Code, § 47607.)

The Commission determined that the following provisions of Education Code sections 47605 and 47607 did not impose a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, for school districts and county boards of education to:

- Plan and prepare procedures for implementation of the Charter Schools Act of 1992.
- Disseminate information regarding charter schools to staff, students, parents, and the community.

Charter Schools II

On November 21, 2002, the Commission adopted its Statement of Decision finding that Education Code sections 47605, subdivisions (j)(1) and (k)(3), 47605.5, 47607, and 47614, as added or amended by Statutes 1998, chapters 34 and 673, require new activities, as specified below, which constitute new programs or higher levels of service for school districts and/or county offices of

education within the meaning of article XIII B, section 6 of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514:

School Districts

- Review charter school petitions for renewal, when submitted directly to the governing board of the school district that initially denied the charter, prior to expiration of the charter granted by the State Board of Education. (Ed. Code, § 47605, subd. (k)(3).)
- Prior to revocation of a charter, the authority that granted the charter shall notify the charter public school of any violation of this section and give the school a reasonable opportunity to cure the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils. (Ed. Code, § 47607, subd. (c).)
- Permitting a charter school to use, at no charge, facilities not currently being used by the school district for instructional or administrative purposes, or that have not been historically used for rental purposes, provided the charter school shall be responsible for reasonable maintenance of those facilities. (Reimbursement for this activity is limited to administrative expenses resulting directly from the requirement to permit charter schools to utilize unused district facilities. Rental value of the facility is specifically excluded as a reimbursable expense.) (Ed. Code, § 47614.)

County Offices of Education

- Review charter school petitions submitted directly to the county board of education, pursuant to Education Code section 47605, subdivision (b), when the governing board of a school district denies a charter school petition and the charter school petitioner submits the petition to the county board of education.² (Ed. Code, § 47605, subd. (j)(1).)
- Review charter school petitions submitted directly to the county board of education, in the same manner as set forth in Education Code section 47605, for charter schools that will serve pupils for whom the county office of education would otherwise be responsible for providing direct education and related services. (Ed. Code, § 47605.5.)
- Prior to revocation of a charter, the authority that granted the charter shall notify the charter public school of any violation of this section and give the school a reasonable opportunity to cure the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils. (Ed. Code, § 47607, subd. (c).)

The Commission also found that Education Code section 47613 establishes a fee authority that must be used by a school district or county office of education to offset any claimed reimbursement for the costs of charter school supervisorial oversight under the *Charter Schools Parameters and Guidelines*.

In addition, the Commission found that Education Code sections 47602, 47604, 47613, 47613.5, 47614 and California Department of Education Memorandum dated April 28, 1999, do not require any additional mandatory activities of school districts or county offices of education, and therefore, do not impose a new program or higher level of service.

² This mandate replaces the previously approved mandate in *Charter Schools* for a review process for denied charter petitions. (Ed. Code, § 47605, subd. (j), as added by Stats. 1992, ch. 781; replaced by Stats. 1998, ch. 673.)

Discussion

Non-substantive, technical changes were made for purposes of clarification, consistency with language in parameters and guidelines adopted since January 2003, and conformity to the Statement of Decision and statutory language.

II. Eligible Claimants

In a letter dated December 12, 2002, Spector, Middleton, Young and Minney, on behalf of Mandated Cost Systems (MCS), interested party, requested clarification regarding the eligibility of charter school entities to submit their own reimbursement claims.³

When adopting parameters and guidelines, the Commission is bound by Government Code section 17500 and following. Government Code section 17519 defines “school districts” as follows: “School district means any school district, community college district, or county superintendent of schools.” Although in some cases costs incurred by a charter school have been included in a chartering school district’s reimbursement claim, the definition in section 17519 has not been found to include charter schools as a “school district” for the purposes of mandate reimbursement in general.

The claimants for the *Charter Schools II* test claim are the San Diego Unified School District and Los Angeles County Office of Education. All reimbursable activities identified in the Statement of Decision were unique to school districts or county offices of education administration. No activities or costs were claimed at the test claim phase on behalf of charter schools themselves, and therefore, no legal findings were made that would permit charter schools to be reimbursed for these test claim activities. Accordingly, charter schools are not eligible claimants for this mandate and cannot file reimbursement claims, either on their own, or within the claims of a school district or county office of education that granted the charter or was assigned to monitor the charter. For purposes of clarification, staff expressly excluded charter schools as eligible claimants.

III. Period of Reimbursement

This proposed consolidated set of parameters and guidelines is operative for costs incurred from January 1, 1999, and beyond.

The claimant proposed a reimbursement period beginning on or after July 1, 1999. Staff clarified that the test claim filing date establishes a reimbursement period beginning on or after July 1, 1998. However, since the test claim legislation was operative January 1, 1999, costs incurred for compliance with Statutes 1998, chapters 34 and 673 are reimbursable on or after January 1, 1999.

Staff also clarified that Education Code section 47614, as added by Statutes 1998, chapter 34, was replaced by voter approval of Proposition 39, which was operative November 8, 2000. Therefore, costs incurred for compliance with Education Code section 47614 are only reimbursable for the period of January 1, 1999, through November 7, 2000.⁴

In its September 4, 2003 comments on the draft staff analysis,⁵ the SCO suggested that a provision requiring claimants to re-file reimbursement claims for the *Charter Schools* program for fiscal years 1998-1999 through 2002-2003 be included to address a change in the law which replaced the activity related to “Petition Appeals” in the existing *Charter Schools* program.

³ Exhibit E.

⁴ Government Code section 17556, subdivision (f).

⁵ Exhibit G.

However, the authority to direct the re-filing of reimbursement claims resides solely with the SCO.

Government Code section 17558, subdivision (a), requires the Commission to submit the adopted parameters and guidelines to the Controller who shall pay and audit the reimbursement claims. Staff notes that the parameters and guidelines determine the amount to be subvended to local government agencies and school districts for reimbursement, and identify the eligible claimants, period of reimbursement, and reimbursable activities. After receiving the parameters and guidelines, Government Code section 17558, subdivision (b), requires the Controller to issue claiming instructions, which instruct local government agencies and school districts on how to file reimbursement claims for costs mandated by the state. Accordingly, staff did not include the SCO's suggested provision.

Further, costs claimed previously for fiscal years 1998-1999, 1999-2000, 2000-2001, 2001-2002, and 2002-2003 as of the effective date of these parameters and guidelines pursuant to the SCO's claiming instructions for Program 140 may not be claimed and are not reimbursable under these parameters and guidelines.

IV. Reimbursable Activities

The reimbursable activities under the *Charter Schools* program were added by Statutes 1992, chapter 781.⁶ Education Code section 47605, subdivision (j)(1), as amended by Statutes 1998, chapter 673, replaced the previously approved mandate in *Charter Schools* for a review process for denied charter school petitions.⁷ Therefore, effective January 1, 1999, the following activities from the original *Charter Schools* Parameters and Guidelines, which were added by former Education Code section 47605, subdivisions (j)(1), (j)(2), and (j)(3), are no longer reimbursable, and thus, were not included in this proposed consolidated parameters and guidelines:

School Districts

- Provide persons to take part in a review panel to review the decision of the governing board of the school district and, if necessary, request the governing board of the school district to reconsider the charter request. (Former Ed. Code, § 47605, subd. (j).)
- Respond to any request of the review panel selected and convened by the county superintendent of schools pursuant to an appeal of any petition denied by the school district. (Former Ed. Code, § 47605, subd. (j).)

County Boards of Education

- Select and convene a review panel to review the decision of the governing board of the school district and, if necessary, request the governing board of the school district to reconsider the charter request. (Former Ed. Code, § 47605, subds. (j)(1) and (j)(2).)
- Hear a petition following a denial on reconsideration by the governing board of a school district. (Former Ed. Code, § 47605, subd. (j)(3).)

⁶ Exhibit B, *Charter Schools* Parameters and Guidelines dated October 18, 1994.

⁷ Activity B.1.a. under *Charter Schools II* replaced the activity related to "Petition Appeals" in the original *Charter Schools* Parameters and Guidelines.

- Conduct a public hearing within thirty days of receipt of a petition to determine community support for the petition. (Former Ed. Code, § 47605, subd. (j)(3).)
- Grant or deny the petition within sixty days of receipt, subject to a thirty-day extension upon agreement of the parties. (Former Ed. Code, § 47605, subd. (j)(3).)

VII. Offsetting Savings and Reimbursements

Staff included the Commission's finding regarding the fee authority established by Education Code section 47613 that must be used by a school district or county office of education to offset any claimed reimbursement for the costs of charter school supervisorial oversight under the *Charter Schools* Parameters and Guidelines. As found in the Statement of Decision:

Supervisorial oversight is a reimbursable activity in the original *Charter Schools* Parameters and Guidelines, as follows:

4. Monitoring the charter

Subsequent administrative review, analysis, and reporting on the charter school's performance for purposes of charter reconsideration, renewal, revision, evaluation, or revocation by the governing body.⁸

Accordingly, the fee authority must be applied to activity B. 1. under *Charter Schools* in section IV. of the proposed consolidated parameters and guidelines.

X. Legal and Factual Basis for the Parameters and Guidelines

On October 15, 2003, the Bureau of State Audits (BSA) issued its audit report on the *Peace Officers Bill of Rights* and *Animal Adoption* programs. The audit report recommends:

To assist local entities in preparing mandate reimbursement claims, the Commission should include language in its parameters and guidelines to notify claimants and the relevant state entities that the statement of decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines; it also should point out that the support for such legal and factual findings is found in the administrative record of the test claim.

Therefore, staff included the recommended language in the proposed consolidated parameters and guidelines for the *Charter Schools* and *Charter Schools II* programs. If the Commission adopts this language, it will be included in all future parameters and guidelines.

Staff Recommendation

Staff recommends that the Commission consolidate the parameters and guidelines for *Charter Schools* with the proposed parameters and guidelines for *Charter Schools II*. The proposed consolidated parameters and guidelines begin on page 9.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the consolidated parameters and guidelines following the hearing.

⁸ Exhibit C.

PROPOSED CONSOLIDATION OF PARAMETERS AND GUIDELINES

Education Code Section 47605, Subdivision (b), and
former Subdivisions (j)(1), (j)(2), and (j)(3)
Education Code Section 47607, Subdivisions (a) and (b)

Statutes 1992, Chapter 781

Charter Schools (CSM 4437)

and

Education Code Sections 47605, Subdivisions (j)(1) and (k)(3),
47605.5, 47607, and 47614

Statutes 1998, Chapters 34 and 673

Charter Schools II (99-TC-03)

I. SUMMARY OF THE MANDATE

Charter Schools

On July 21, 1994, the Commission on State Mandates (Commission) adopted its Statement of Decision finding that Education Code sections 47605 and 47607, as added by Statutes 1992, chapter 781, require new activities related to initial charter school petitions and for monitoring and evaluating the performance of charter schools pertaining to the revision or renewal of approved charters, which constitute a new program or higher level of service for school districts and/or county offices of education within the meaning of article XIII B, section 6 of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514. Specifically, the Commission approved the *Charter Schools* test claim for the increased costs of performing the following activities:

School Districts

- Respond to requests from the public for information on the charter school program. (Ed. Code, § 47605.)
- Conduct a public hearing within thirty days of receipt of a petition to determine community support for the petition. (Ed. Code, § 47605, subd. (b).)
- Grant or deny the petition within sixty days of receipt, subject to a thirty-day extension upon agreement of the parties. (Ed. Code, § 47605, subd. (b).)
- Provide persons to take part in a review panel to review the decision of the governing board of the school district and, if necessary, request the governing board of the school district to reconsider the charter request. (Former Ed. Code, § 47605, subd. (j).)⁹
- Respond to any request of the review panel selected and convened by the county superintendent of schools pursuant to an appeal of any petition denied by the school district. (Former Ed. Code, § 47605, subd. (j).)¹⁰

⁹ Effective January 1, 1999, this activity was replaced with the new requirements of Education Code section 47605, subdivision (j)(1), as amended by Statutes 1998, chapter 673.

- Monitor the performance of charter schools for which they have granted charters to determine if they have achieved their goals and objectives. (Ed. Code, § 47607.)
- Evaluate and decide upon requests for revision or extension of approved charters. (Ed. Code, § 47607.)

County Boards of Education

- Select and convene a review panel to review the decision of the governing board of the school district and, if necessary, request the governing board of the school district to reconsider the charter request. (Former Ed. Code, § 47605, subs. (j)(1) and (j)(2).)¹¹
- Hear a petition following a denial on reconsideration by the governing board of a school district. (Former Ed. Code, § 47605, subd. (j)(3).)¹²
- Conduct a public hearing within thirty days of receipt of a petition to determine community support for the petition. (Former Ed. Code, § 47605, subd. (j)(3).)¹³
- Grant or deny the petition within sixty days of receipt, subject to a thirty-day extension upon agreement of the parties. (Former Ed. Code, § 47605, subd. (j)(3).)¹⁴
- Monitor the performance of charter schools for which they have granted charters to determine if they have achieved their goals and objectives. (Ed. Code, § 47607.)
- Evaluate and decide upon requests for revision or extension of approved charters. (Ed. Code, § 47607.)

The Commission determined that the following provisions of Education Code sections 47605 and 47607 did not impose a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, for school districts and county boards of education to:

- Plan and prepare procedures for implementation of the Charter Schools Act of 1992.
- Disseminate information regarding charter schools to staff, students, parents, and the community.

Charter Schools II

On November 21, 2002, the Commission adopted its Statement of Decision finding that Education Code sections 47605, subdivisions (j)(1) and (k)(3), 47605.5, 47607, and 47614 require new activities, as specified below, which constitute new programs or higher levels of service for school districts and/or county offices of education within the meaning of article

¹⁰ Effective January 1, 1999, this activity was replaced with the new requirements of Education Code section 47605, subdivision (j)(1), as amended by Statutes 1998, chapter 673.

¹¹ Effective January 1, 1999, this activity was replaced with the new requirements of Education Code section 47605, subdivision (j)(1), as amended by Statutes 1998, chapter 673.

¹² Effective January 1, 1999, this activity was replaced with the new requirements of Education Code section 47605, subdivision (j)(1), as amended by Statutes 1998, chapter 673.

¹³ Effective January 1, 1999, this activity was replaced with the new requirements of Education Code section 47605, subdivision (j)(1), as amended by Statutes 1998, chapter 673.

¹⁴ Effective January 1, 1999, this activity was replaced with the new requirements of Education Code section 47605, subdivision (j)(1), as amended by Statutes 1998, chapter 673.

XIII B, section 6 of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514:

School Districts

- Review charter school petitions for renewal, when submitted directly to the governing board of the school district that initially denied the charter, prior to expiration of the charter granted by the State Board of Education. (Ed. Code, § 47605, subd. (k)(3).)
- Prior to revocation of a charter, the authority that granted the charter shall notify the charter public school of any violation of this section and give the school a reasonable opportunity to cure the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils. (Ed. Code, § 47607, subd. (c).)
- Permit a charter school to use, at no charge, facilities not currently being used by the school district for instructional or administrative purposes, or that have not been historically used for rental purposes, provided the charter school shall be responsible for reasonable maintenance of those facilities. (Reimbursement for this activity is limited to administrative expenses resulting directly from the requirement to permit charter schools to utilize unused district facilities. Rental value of the facility is specifically excluded as a reimbursable expense.) (Ed. Code, § 47614.)

County Offices of Education

- Review charter school petitions submitted directly to the county board of education, pursuant to Education Code section 47605, subdivision (b), when the governing board of a school district denies a charter school petition and the charter school petitioner submits the petition to the county board of education. (Ed. Code, § 47605, subd. (j)(1).)
- Review charter school petitions submitted directly to the county board of education, in the same manner as set forth in Education Code section 47605, for charter schools that will serve pupils for whom the county office of education would otherwise be responsible for providing direct education and related services. (Ed. Code, § 47605.5.)
- Prior to revocation of a charter, the authority that granted the charter shall notify the charter public school of any violation of this section and give the school a reasonable opportunity to cure the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils. (Ed. Code, § 47607, subd. (c).)

The Commission also found that Education Code section 47613 establishes a fee authority that must be used by a school district or county office of education to offset any claimed reimbursement for the costs of charter school supervisorial oversight under the *Charter Schools Parameters and Guidelines*.

In addition, the Commission found that Education Code sections 47602, 47604, 47613, 47613.5, 47614 and California Department of Education Memorandum dated April 28, 1999, do not require any additional mandatory activities of school districts or county offices of education, and therefore, do not impose a new program or higher level of service.

II. ELIGIBLE CLAIMANTS

Any “school district,” as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate, is eligible to claim reimbursement. Charter schools are not eligible claimants.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557 states that a test claim must be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. Although the *Charter Schools II* test claim was filed on August 24, 1999, which establishes a reimbursement period beginning July 1, 1998, the test claim legislation was not operative until January 1, 1999. Therefore, this consolidated set of parameters and guidelines is operative for costs incurred from January 1, 1999, and beyond.

Education Code section 47614, as added by Statutes 1998, chapter 34, was replaced by voter approval of Proposition 39, which was operative November 8, 2000. Therefore, costs incurred for compliance with Education Code section 47614 is only reimbursable for the period January 1, 1999, through November 7, 2000.

Costs for *Charter Schools* (CSM 4437) that have been claimed for fiscal years 1998-1999, 1999-2000, 2000-2001, 2001-2002, and 2002-2003 as of the effective date of these parameters and guidelines pursuant to the State Controller’s claiming instructions for Program 140 may not be claimed and are not reimbursable under these parameters and guidelines.

Actual costs for one fiscal year should be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial years’ costs shall be submitted within 120 days of the issuance of the State Controller’s claiming instructions.

If total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, and declarations. Declarations must include a certification or declaration stating, “I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct,” and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities are reimbursable:

Charter Schools¹⁵

A. School Districts

1. Responding to information requests

Provide information, upon request, to the community regarding the Charter Schools Act of 1992 and governing board's charter policy and procedures. (Ed. Code, § 47605.)¹⁶

2. Evaluating petitions

Review and evaluate qualified charter petitions for compliance with criteria for the granting of charters. (Ed. Code, § 47605.)¹⁷

3. Public hearings

Prepare for public hearings, to be done within thirty days of receiving the petition, to consider the level of community support for a charter school petition, and grant or deny the charter school petition within sixty days of receiving the petition, subject to one thirty-day continuance by agreement of the parties, pursuant to Education Code section 47605. (Ed. Code, § 47605.)¹⁸

B. School Districts and County Offices of Education¹⁹

1. Monitoring: Renewal, Material Revision, and Revocation of the Charter²⁰

a. Review, analyze, and report on the charter school's performance for purposes of charter reconsideration, renewal, revision, evaluation, or revocation by the governing body. (Ed. Code, § 47607, subds. (a) and (b).)²¹

b. Evaluate and decide upon material revisions, renewals, or revocations of charters. (Ed. Code, § 47607, subds. (a) and (b).)²²

Charter Schools II

A. School Districts

1. Review charter school petitions for renewal that are submitted directly to the governing board of the school district that initially denied the charter.²³ Pursuant to Education Code

¹⁵ Effective January 1, 1999, many activities from the original *Charter Schools* Parameters and Guidelines were amended by Statutes 1998, chapters 34 and 673, and are reflected in the *Charter Schools II* activities.)

¹⁶ As added by Statutes 1992, chapter 781.

¹⁷ As added by Statutes 1992, chapter 781.

¹⁸ As added by Statutes 1992, chapter 781.

¹⁹ See section VII. Offsetting Savings and Reimbursements.

²⁰ The fee authority established by Education Code section 47613 must be used by a school district or county office of education to offset any claimed reimbursement for the cost of these activities.

²¹ As added by Statutes 1992, chapter 781.

²² As added by Statutes 1992, chapter 781.

²³ Each renewal is for a period of five years.

section 47605, subdivision (k)(3), the petition must be submitted prior to expiration of the charter granted by the State Board of Education. (Ed. Code, § 47605, subd. (k)(3).)²⁴

2. Notify the charter public school of any violation of Education Code section 47607, subdivision (b), prior to revocation of a charter. Pursuant to Education Code section 47607, subdivision (c), the school shall be given a reasonable opportunity to cure the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils. (Ed. Code, § 47607, subd. (c).)²⁵

B. County Offices of Education

1. Review charter school petitions submitted directly to the county board of education, pursuant to Education Code section 47605, subdivision (b):
 - a. When the governing board of a school district denies a charter school petition and the charter school petitioner submits the petition to the county board of education. (Ed. Code, § 47605, subd. (j)(1).)²⁶
 - b. For charter schools that will serve pupils for whom the county office of education would otherwise be responsible for providing direct education and related services. (Ed. Code, § 47605.5.)²⁷
2. Notify the charter public school of any violation of Education Code section 47607, subdivision (b), prior to revocation of a charter. Pursuant to Education Code section 47607, subdivision (c), the school shall be given a reasonable opportunity to cure the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils. (Ed. Code, § 47607, subd. (c).)²⁸

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. Direct costs that are eligible for reimbursement are:

²⁴ As amended by Statutes 1998, chapter 673.

²⁵ As amended by Statutes 1998, chapter 34.

²⁶ As amended by Statutes 1998, chapter 673. As amended by Statutes 1998, chapter 673. This replaces the previously approved activity in the original *Charter Schools Parameters and Guidelines* related to “Petition Appeals.” (Ed. Code, § 47605, subd. (j), as added by Stats. 1992, ch. 781; replaced by Stats. 1998, ch. 673.)

²⁷ As added by Statutes 1998, chapter 34.

²⁸ As amended by Statutes 1998, chapter 34.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter²⁹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING SAVINGS AND REIMBURSEMENTS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

Education Code section 47613 establishes a fee authority that must be used by a school district or county office of education to offset any claimed reimbursement for the costs of charter school supervisorial oversight under the *Charter Schools* Parameters and Guidelines. This refers to activity B. 1. under *Charter Schools* in section IV. of these parameters and guidelines.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the statute or executive order creating the mandate and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (a), and California Code of Regulations, title 2, section 1183.2.

²⁹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.

[PAGES 18-100 LEFT BLANK INTENTIONALLY.]